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INTERNATIONAL CORP (BLF)			BRUCKART, BENJAMIN R	
c/o BIGGERS & OHANIAN, LLP				
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			2155	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,757

Applicant(s)

SMITH ET AL.

Examiner

Benjamin R. Bruckart

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-50, 52-77 and 79-81 is/are rejected.
- 7) ☐ Claim(s) 24, 51 and 78 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claims 1-81 are pending in this Office Action.

No claims are amended.

Reopening Prosecution

Applicant's arguments filed 8/8/06 have been fully considered and are moot in view of new grounds of rejection. The reasons are set forth below.

Applicant's invention as claimed:

Claims 1, 4-6, 14-20, 21, 25-27 are rejected as being unpatentable under 35 U.S.C. 103(a) by International Patent Number WO 94/11967 by WEEKS et al in view of U.S. Patent No. 6,477,542 by Papaioannou (herein after "Papa").

Regarding claim 1, the Weeks reference teaches a method for communication of location specific content to client devices (Weeks: page 18, lines 16-22), the method comprising the steps of:

identifying a client device at a location of a location specific device (Weeks: page 16, lines 1-22), wherein the client device comprises client device attributes, the client device attributes comprising a client device identification code (Weeks: page 16, line 15; identifier signals; page 15; lines 8-10), and wherein the location specific device comprises a location identification code (Weeks: page 16, lines 21-26);

recording user preferences for the client device (Weeks: page 17, line 22 – page 18, line 8);

selecting, in dependence upon the user preferences for the client device and upon the location identification code, content for transmission to the client device (Weeks: page 18, lines 14-22);

transmitting the selected content through the location specific device to the client device for presentation (Weeks: page 16, lines 13-26).

The Weeks reference fails to teach retaining content.

However, the Papaioannou reference teaches enabling retention of the content within the client device for a period of time (Papa: col. 3, lines 1-25) in order to minimize bandwidth and make the system more robust (Papa: col. 3, lines 59-62).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communicating location based content to devices as taught by Weeks to include retaining that information as taught by Papa in order to allow playback and minimizing bandwidth.

Regarding claim 4, the method of claim 1 wherein the client device comprises a personal digital assistant enabled for wireless data communications (Weeks: page 2, lines 23-26; page 15, lines 20-24; Fig. 3).

Regarding claim 5, the method of claim 1 wherein the client device comprises a hand-held personal computer enabled for wireless data communications (Week: page 2, lines 23-26; page 15, lines 20-24; Fig. 3).

Regarding claim 6, the method of claim 1 wherein the client device comprises a special purpose device enabled for wireless data communications (Week: page 2, lines 23-26; page 15, lines 20-24; Fig. 3).

Regarding claim 14, the method of claim 1 wherein recording user preferences for a client device comprises accepting indications of user preference entered by a user through the client device (Weeks: page 17, line 22 – page 18, line 8).

Regarding claim 15, the method of claim 1 wherein recording user preferences for a client device comprises accepting user instructions entered by a user through the client device (Weeks: page 17, line 22 – page 18, line 8).

Regarding claim 16, the Weeks reference teaches the method of claim 15. The Weeks reference fails to state retaining the content. However, the Papa reference teaches, wherein user instructions include an instruction to pause presentation of content (Papa: col. 3, lines 25-33) in order to minimize bandwidth and make the system more robust (Papa: col. 3, lines 59-62).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communicating location based content to devices as taught by Weeks to include retaining that information as taught by Papa in order to allow playback and minimizing bandwidth.

Regarding claim 17, the Weeks reference teaches the method of claim 15. The Weeks reference fails to teach retaining content. However, the Papa reference teaches, wherein user instructions include an instruction to resume presentation of content (Papa: col. 3, lines 25-33) in order to minimize bandwidth and make the system more robust (Papa: col. 3, lines 59-62).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communicating location based content to devices as taught by Weeks to include retaining that information as taught by Papa in order to allow playback and minimizing bandwidth.

Regarding claim 18, the Weeks reference teaches the method of claim 15. The Weeks reference fails to teach retaining the content. However the Papa reference teaches, wherein user instructions include an instruction to rewind presentation of content (Papa: col. 3, lines 25-33) in order to minimize bandwidth and make the system more robust (Papa: col. 3, lines 59-62).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communicating location based content to devices as taught by Weeks to include retaining that information as taught by Papa in order to allow playback and minimizing bandwidth.

Regarding claim 19, the Weeks reference teaches the method of claim 15. The Weeks reference fails to teach retaining content. However the Papa reference teaches, wherein user

instructions include an instruction to fast forward presentation of content (Papa: col. 3, lines 25-33) in order to minimize bandwidth and make the system more robust (Papa: col. 3, lines 59-62).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communicating location based content to devices as taught by Weeks to include retaining that information as taught by Papa in order to allow playback and minimizing bandwidth.

Regarding claim 20, the method of claim 15, wherein user instructions include an instruction to change the level of detail of presentation of content (Weeks: page 17, line 22 – page 18, line 8).

Regarding claim 21, the method of claim 1 wherein the content comprises programs and the user instructions include an instruction to change from one program to another (Weeks: page 18, lines 1-27).

Regarding claim 25, The examiner takes Official Notice (see MPEP § 2144.03) that "a microcomputer is located at location specific device" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or reputation of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Regarding claim 26, the method of claim 1 further comprising storing the content in a content server located remotely from the location specific device (Weeks: Fig. 1, tag DP; page 7, lines 3022).

Regarding claim 27, the method of claim 26 wherein the content server is coupled for data communications through a multiplicity of location specific devices to a multiplicity of client devices (Weeks: page 7, lines 23-12; Fig. 1).

Claims 2-3, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable by International Patent Number WO 94/11967 by WEEKS et al in view of U.S. Patent No. 6,477,542 by Papaioannou (herein after "Papa") in further view of U.S. Publication 2002/0022453 by Balog et al.

Regarding claim 3, the Weeks and Papa references teaches the method of claim 1.

The Weeks and Papa references fail to teach a network address.

However, the Balog reference teaches a method of delivering content to devices and client device identification codes comprises a network address (Balog: page 3, para 29; page 5, claim 5) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 2, the Weeks and Papa references teach the method of claim 1. The Weeks and Papa references fail to teach network addresses. However, the Balog reference teaches, wherein the location identification code comprises a network address (Balog: page 3, para 29; access point; page 5, claim 5) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by

Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 7, the Weeks and Papa references teach the method of claim 1. The Weeks and Papa references fail to teach transcoding. However, the Balog reference teaches further comprising transcoding the content in dependence upon the client device attributes (Balog: page 2, para 23) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 8, the Weeks and Papa references teach the method of claim 1. The Weeks and Papa references fail to teach device type. However, the Balog reference teaches wherein the client device attributes include a client device type (Balog: page 3, para 29-30) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 9, the Weeks and Papa references teach the method of claim 1. The Weeks and Papa references fail to teach device capabilities. However, the Balog reference teaches wherein the client device attributes comprise presentation capabilities (Balog: page 3, para 30) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by

Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 10, the Weeks and Papa references teach the method of claim 9. The Weeks and Papa references fail to teach screen size. However, the Balog reference teaches wherein the presentation capabilities include display screen size (Balog: page 3, para 30) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 11, the Weeks and Papa references teach the method of claim 9. The Weeks and Papa references fail to teach color availability. However, the Balog reference teaches wherein the presentation capabilities include color availability (Balog: page 3, para 30) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 12, the Weeks and Papa references teach the method of claim 9. The Weeks and Papa references fail to teach audio availability. However, the Balog reference teaches wherein the presentation capabilities include audio availability (Balog: page 3, para 30) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Regarding claim 13, Weeks and Papa references teach the the method of claim 9. The Weeks and Papa references fail to teach video frame rate. However, the Balog reference teaches wherein the presentation capabilities include a video frame rate (Balog: page 3, para 30, 33) in order to address and send content to the corresponding devices (Balog: page 2, para 10).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating device attributes as taught by Balog in order to successfully deliver content to (Balog: page 2, para 10).

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable by International Patent Number WO 94/11967 by WEEKS et al in view of U.S. Patent No. 6,477,542 by Papaioannou (herein after "Papa") in further view of U.S. Publication 2002/0052925 by Kim et al.

Regarding claim 22, the Weeks and Papa references teach the method of claim 1.

The Weeks and Papa references fail to teach an expiration date.

However, the Kim reference teaches transmitting to the client device an expiration date and time for the selected content transmitted to the device for presentation (Kim: page 12, para 159) in order to provide relative presentation and allow archiving of messages for later retrieval (Kim: page 12, para 158-159).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating expiration dates as taught by Kim in order to present relative content for short times to the device (Kim: page 12, para 158-159).

Regarding claim 23, the Weeks and Papa reference teach the method of claim 22.

The Weeks and Papa references fail to teach an expiration date.

However, the Kim reference teaches wherein enabling retention of the content within the client device for a period of time further comprises altering the expiration date and time (Kim: page 12, para 158-159) in order to provide relative presentation and allow archiving of messages for later retrieval (Kim: page 12, para 158-159).

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It would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of communication of location specific content to devices as taught by Weeks and Papa while incorporating expiration dates as taught by Kim in order to present relative content for short times to the device (Kim: page 12, para 158-159).

Allowable Subject Matter

Claims 24, 51, 78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While the examiner understands the difference between a method, a system, and a computer program for communication of location specific content to client. The examiner equates these to the hardware and software and implementations in which the invention is embodied. Therefore claims 1-27 are equated to claims 28-54 and 55-81 in the same manner.

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REMARKS

Applicant's arguments are considered and are heavily dependent on examples from the specification. While the claims are examined in light of the specification, the specification is not read into the claim limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 8:00-5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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Benjamin R Bruckart

Examiner

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B.R.B.


SALEH NASSAR
SUPERVISORY PATENT EXAMINER